

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 43932

STATE OF IDAHO, ) 2016 Unpublished Opinion No. 663  
 )  
Plaintiff-Respondent, ) Filed: August 29, 2016  
 )  
v. ) Stephen W. Kenyon, Clerk  
 )  
BRIAN TODD DAHLIN, ) THIS IS AN UNPUBLISHED  
 ) OPINION AND SHALL NOT  
Defendant-Appellant. ) BE CITED AS AUTHORITY  
 )  
\_\_\_\_\_ )

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Samuel A. Hoagland, District Judge.

Order denying successive I.C.R. 35 motion, affirmed.

Eric D. Fredericksen, Interim State Appellate Public Defender; Reed P. Anderson, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

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Before GUTIERREZ, Judge; GRATTON, Judge;  
and HUSKEY, Judge  
\_\_\_\_\_

PER CURIAM

Brian Todd Dahlin pled guilty to possession of a controlled substance. Idaho Code § 37-2732(c). The district court sentenced Dahlin to a unified term of seven years with four years determinate, and retained jurisdiction. At the retained jurisdiction review hearing, Dahlin's counsel made an oral Rule 35 motion requesting that the district court reduce the sentence. The district court relinquished jurisdiction, but granted Dahlin's motion, in part, by reducing Dahlin's sentence to a unified term of seven years with three years determinate. Dahlin later filed a written I.C.R. 35 motion, which the district court denied. Dahlin appeals asserting that the district court abused its discretion by denying his written Rule 35 motion. The State contends that the written Rule 35 motion was an impermissible successive motion.

The district court did not have jurisdiction to entertain the second Rule 35 motion. *State v. Bottens*, 137 Idaho 730, 52 P.3d 875 (Ct. App. 2002). Moreover, Dahlin submitted no new or additional evidence in support of the motion, which is a Rule 35 requirement. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Therefore, the district court's order denying Dahlin's successive Rule 35 motion is affirmed.